

REFERENCE TITLE: insurance premium tax; repeal

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2731

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 20-224, 20-224.01 AND 20-224.02, ARIZONA REVISED STATUTES; REPEALING SECTIONS 20-224.03, 20-224.04 AND 20-224.05, ARIZONA REVISED STATUTES; AMENDING SECTION 20-225, ARIZONA REVISED STATUTES; REPEALING SECTION 20-227, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-410 AND 20-411.02, ARIZONA REVISED STATUTES; REPEALING SECTIONS 20-416, 20-417 AND 20-837, ARIZONA REVISED STATUTES; AMENDING SECTION 20-882, ARIZONA REVISED STATUTES; REPEALING SECTIONS 20-1010, 20-1060 AND 20-1097.07, ARIZONA REVISED STATUTES; AMENDING SECTION 20-2304, 41-1525 AND 41-1532, ARIZONA REVISED STATUTES; REPEALING SECTION 43-210, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1201, ARIZONA REVISED STATUTES; RELATING TO INSURANCE PREMIUM TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224, Arizona Revised Statutes, is amended to
3 read:

4 20-224. Premium tax

5 A. On or before March 1 of each year each authorized domestic insurer,
6 each other insurer and each formerly authorized insurer referred to in
7 section 20-206, subsection B, shall file with the director a report in a
8 form prescribed by the director showing total direct premium income including
9 policy membership and other fees and all other considerations for insurance
10 from all classes of business whether designated as a premium or otherwise
11 received by it during the preceding calendar year on account of policies and
12 contracts covering property, subjects or risks located, resident or to be
13 performed in this state, after deducting from such total direct premium
14 income applicable cancellations, returned premiums, the amount of reduction
15 in or refund of premiums allowed to industrial life policyholders for payment
16 of premiums direct to an office of the insurer and all policy dividends,
17 refunds, savings coupons and other similar returns paid or credited to
18 policyholders within this state and not reapplied as premiums for new,
19 additional or extended insurance. No deduction shall be made of the cash
20 surrender values of policies or contracts. Considerations received on
21 annuity contracts, as well as the unabsorbed portion of any premium deposit,
22 shall not be included in total direct premium income, and neither shall be
23 subject to tax. The report shall separately indicate the total direct
24 premium income received from fire insurance premiums on property located in
25 an incorporated city or town that procures the services of a private fire
26 company.

27 B. Coincident with the filing of such tax report each insurer shall
28 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
29 tax ~~of 2.0 per cent of such net premiums, except that the tax on fire~~
30 ~~insurance premiums on property located in an incorporated city or town which~~
31 ~~procures the services of a private fire company is .66 per cent, the tax on~~
32 ~~all other fire insurance premiums is 2.2 per cent and the tax on health care~~
33 ~~service and disability insurance premiums is as prescribed under sections~~
34 ~~20-837, 20-1010 and 20-1060 AS PRESCRIBED IN SUBSECTION C OF THIS SECTION AND~~
35 ~~SECTION 20-224.01.~~ Any payments of tax pursuant to subsection E of this
36 section shall be deducted from the tax payable pursuant to this
37 subsection. Each insurer shall reflect the cost savings attributable to the
38 lower tax in fire insurance premiums charged on property located in an
39 incorporated city or town that procures the services of a private fire
40 company.

41 C. ~~Eighty-five per cent of the tax paid hereunder by~~ an insurer on
42 account of premiums received for fire insurance shall ~~be separately specified~~
43 ~~in the report and~~ PAY A TAX OF 1.87 PER CENT ON THE NET PREMIUMS, WHICH shall
44 be apportioned in the manner provided by sections 9-951, 9-952 and 9-972,
45 except that all of the tax so allocated to a fund of a municipality which has

no volunteer fire fighters or pension obligations to volunteer fire fighters shall be appropriated to the account of the municipality in the public safety personnel retirement system and all of the tax so allocated to a fund of a municipality which has both full-time paid fire fighters and volunteer fire fighters or pension obligations to full-time paid fire fighters or volunteer fire fighters shall be appropriated to the account of the municipality in the public safety personnel retirement system where it shall be reallocated by actuarial procedures proportionately to the municipality for the account of the full-time paid fire fighters and to the municipality for the account of the volunteer fire fighters. A full accounting of such reallocation shall be forwarded to the municipality and both local boards.

D. This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 20-1566.

E. Any insurer which paid or is required to pay a tax of two thousand dollars or more on net premiums received during the preceding calendar year, pursuant to subsection B of this section and ~~sections~~ SECTION 20-224.01, ~~20-837, 20-1010, 20-1060 and 20-1097.07,~~ shall file on or before the fifteenth day of each month from March through August a report for that month, on a form prescribed by the director, accompanied by a payment in an amount equal to fifteen per cent of the amount paid or required to be paid during the preceding calendar year pursuant to subsection B of this section and ~~sections~~ SECTION 20-224.01, ~~20-837, 20-1010, 20-1060 and 20-1097.07.~~ The payments are due and payable on or before the fifteenth day of each month and shall be made to the director for deposit, pursuant to sections 35-146 and 35-147.

~~F. Except for the tax paid on fire insurance premiums pursuant to subsections B and C of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03 or 20-224.04.~~

Sec. 2. Section 20-224.01, Arizona Revised Statutes, is amended to read:

20-224.01. Premium tax on vehicles for department of public safety retirement purposes

A. Coincident with the filing of the tax report as required in section 20-224, each insurer shall pay to the director, for deposit, pursuant to sections 35-146 and 35-147, a tax of .4312 per cent of such net premiums received from all insurance carried for or on vehicles as defined in section 28-101, in addition to other applicable taxes.

B. The tax of .4312 per cent of such net premiums received by the director and paid by an insurer on account of premiums received for insurance on certain vehicles as defined in section 28-101 shall be separately specified in the insurer's report required in section 20-224 and is appropriated to the public safety personnel retirement system and shall be transferred by the state treasurer to the fund manager of the public safety personnel retirement system for deposit in the highway patrol account. If

1 the tax received is greater than the amount necessary to fund the highway
 2 patrol account, beginning in the 1991-1992 fiscal year the state treasurer
 3 shall deposit the excess in the Arizona highway patrol fund established in
 4 section 41-1752 in any amount required by legislative appropriation.

5 C. An insurer shall report and pay the taxes required by this section
 6 in the manner prescribed by section 20-224. An insurer who fails to pay the
 7 tax on or before the prescribed payment dates is subject to a civil penalty
 8 determined pursuant to section 20-225.

9 ~~D. An insurer shall not claim a premium tax credit pursuant to section~~
 10 ~~20-224.03 or 20-224.04 for the premium taxes paid pursuant to this section.~~

11 Sec. 3. Section 20-224.02, Arizona Revised Statutes, is amended to
 12 read:

13 20-224.02. Credit for overpayment of tax

14 If an overpayment of the taxes imposed by sections 20-224, ~~AND~~
 15 ~~20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07~~ results from payments made
 16 pursuant to the method prescribed in section 20-224, subsection E, the
 17 director shall within three months after the due date refund the overpayment
 18 without interest.

19 Sec. 4. Repeal

20 Sections 20-224.03, 20-224.04 and 20-224.05, Arizona Revised Statutes,
 21 are repealed.

22 Sec. 5. Section 20-225, Arizona Revised Statutes, is amended to read:

23 20-225. Failure to pay tax; penalty

24 A. Any insurer failing to pay the tax prescribed by sections 20-224, ~~AND~~
 25 ~~20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07~~ is subject to a civil
 26 penalty equal to the greater of twenty-five dollars or five per cent of the
 27 amount due plus interest at the rate of one per cent per month from the date
 28 the tax was due.

29 B. The director may refuse to renew the certificate of authority of
 30 any insurer failing to pay such tax on or before the date it is due. The
 31 director shall revoke the certificate of authority of any insurer failing to
 32 pay such tax for more than thirty days after it was due.

33 Sec. 6. Repeal

34 Section 20-227, Arizona Revised Statutes, is repealed.

35 Sec. 7. Section 20-410, Arizona Revised Statutes, is amended to read:

36 20-410. Validity of surplus lines insurance; disclosure; policy
 37 fees

38 A. Insurance contracts procured as surplus lines coverage are fully
 39 valid and enforceable as to all parties and shall be recognized in all
 40 matters in the same manner as like contracts issued by authorized insurers.

41 B. Any policy and any evidence of surplus lines coverage ~~from~~ **THAT IS**
 42 **ISSUED BY** an unauthorized insurer pursuant to this article and that is issued
 43 for delivery to the insured shall contain a conspicuously stamped or written
 44 notice in bold-faced type that states:

Pursuant to Arizona Revised Statutes section 20-401.01, subsection B, paragraph 1, this policy is issued by an insurer that does not possess a certificate of authority from the director of the Arizona Department of Insurance. If the insurer that issued this policy becomes insolvent, insureds or claimants will not be eligible for insurance guaranty fund protection pursuant to Arizona Revised Statutes title 20.

C. A surplus lines broker may charge and receive a fee in addition to the premium for services provided in the transaction of surplus lines insurance if before effecting any coverage ~~both of the following conditions are met:~~

~~1. the service fees and the specific services for which the fees are charged are disclosed to the insured or the insured's representative and are agreed to in writing by the insured or the insured's representative.~~

~~2. The taxes prescribed in section 20-416 are paid on any fees charged to the insured.~~

Sec. 8. Section 20-411.02, Arizona Revised Statutes, is amended to read:

20-411.02. Nonresident surplus lines broker

A. The director shall license a nonresident person as a surplus lines broker in accordance with section 20-287.

B. Except as otherwise provided, a nonresident surplus lines broker is subject to this title as if the broker were licensed as a resident.

~~C. A license from this state is not required for a nonresident who procures surplus lines insurance in another state in which the nonresident is licensed solely because of the allocation of premium to this state to determine the surplus lines tax due to this state pursuant to section 20-416, subsection C. The nonresident shall remit the tax according to this article. The director shall prescribe the form of any reports or statements that are necessary for the nonresident to remit the tax.~~

Sec. 9. Repeal

Sections 20-416, 20-417 and 20-837, Arizona Revised Statutes, are repealed.

Sec. 10. Section 20-882, Arizona Revised Statutes, is amended to read:

20-882. Applicable insurance provisions

Fraternal benefit societies are governed by this article and are subject to and governed by the following articles and sections of this title to the extent that the articles and sections apply to the societies and are not modified by ~~the provisions of~~ this article:

1. Chapter 1, articles 1 and 2 of this title.

2. Chapter 2, article 1 of this title, except that sections 20-209 through 20-214, 20-224, 20-224.01, 20-224.02, 20-225, 20-226, ~~20-227~~ and 20-229 do not apply to fraternal benefit societies.

3. Sections 20-501 through 20-505 and 20-511 through 20-514.

1 4. Chapter 3, article 2 of this title, except that section 20-535,
2 section 20-536, subsections B and C and section 20-556, paragraphs 4 and 6 do
3 not apply to limitations with respect to monies invested in real property for
4 home or branch office purposes.

5 5. Chapter 3, article 4 of this title.

6 6. Chapter 3, article 8 of this title.

7 7. Sections 20-1110, 20-1111, 20-1115, 20-1133 and 20-1135.

8 8. Section 20-1408.

9 Sec. 11. Repeal

10 Sections 20-1010, 20-1060 and 20-1097.07, Arizona Revised Statutes, are
11 repealed.

12 Sec. 12. Section 20-2304, Arizona Revised Statutes, is amended to
13 read:

14 20-2304. Availability of insurance; premium tax exemption

15 A. Beginning on July 1, 1997, as a condition of doing business in this
16 state each accountable health plan shall offer at least one health benefits
17 plan on a guaranteed issuance basis to small employers as required by this
18 section. All small employers qualify for this guaranteed offer of coverage.
19 The accountable health plan shall provide a health benefits plan to each
20 small employer without regard to health status-related factors if the small
21 employer agrees to make the premium payments and to satisfy any other
22 reasonable provisions of the plan that are not inconsistent with this
23 chapter.

24 B. If an accountable health plan offers more than one health benefits
25 plan to small employers, the accountable health plan shall offer a choice of
26 all health benefits plans that the accountable health plan offers to small
27 employers and shall accept any small employer that applies for any of those
28 plans.

29 C. In addition to the requirements prescribed in section 20-2323, for
30 any offering of any health benefits plan to a small employer, as part of the
31 accountable health plan's solicitation and sales materials, an accountable
32 health plan shall make a reasonable disclosure to the employer of the
33 availability of the information described in this subsection and, on request
34 of the employer, shall provide that information to the employer. The
35 accountable health plan shall provide information concerning the following:

36 1. Provisions of coverage relating to the following, if applicable:

37 (a) The accountable health plan's right to change premium rates and
38 the factors that may affect changes in premium rates.

39 (b) Renewability of coverage.

40 (c) Any preexisting condition exclusion.

41 (d) Any affiliation period applied by a health care services
42 organization.

43 (e) The geographic areas served by health care services organizations.

44 2. The benefits and premiums available under all health benefits plans
45 for which the employer is qualified.

1 D. The accountable health plan shall describe the information required
2 by subsection C of this section in language that is understandable by the
3 average small employer and with a level of detail that is sufficient to
4 reasonably inform a small employer of the employer's rights and obligations
5 under the health benefits plan. This requirement is satisfied if the
6 accountable health plan provides each of the following for each product the
7 accountable health plan offers:

8 1. An outline of coverage that describes the benefits in summary form.

9 2. The rate or rating schedule that applies to the product,
10 preexisting condition exclusion or affiliation period.

11 3. The minimum employer contribution and group participation rules
12 that apply to any particular type of coverage.

13 4. In the case of a network plan, a map or listing of the areas
14 served.

15 E. An accountable health plan is not required to disclose any
16 information that is proprietary and protected trade secret information under
17 applicable law.

18 F. An accountable health plan that issues a health benefits
19 plan through a network plan may limit the employers that may apply for any
20 health benefits plan offered by the accountable health plan to those eligible
21 individuals who live, work, ~~or~~ or reside in the service area for the network
22 plan of the accountable health plan.

23 G. On approval of the director, an accountable health plan may refuse
24 to enroll a qualified small employer in a health benefits plan or in a
25 geographic area served by the plan if the accountable health plan
26 demonstrates that its financial or administrative capacity to serve
27 previously enrolled groups and individuals would be impaired. An accountable
28 health plan that refuses to enroll a qualified small employer may not enroll
29 an employer of the same or larger size until the earlier of:

30 1. The date on which the director determines that the accountable
31 health plan has the capacity to enroll a qualified small employer.

32 2. The date on which the accountable health plan enrolls a qualified
33 small employer.

34 H. An accountable health plan that offers coverage to a qualified
35 small employer shall offer coverage to all of the eligible employees of the
36 qualified small employer and their eligible dependents.

37 I. An accountable health plan may request health screening and
38 underwriting information on prospective enrollees to evaluate the risks
39 associated with a qualified small employer who applies for coverage. The
40 accountable health plan may use this information for the purposes of setting
41 premiums, evaluating plan offerings and making reinsurance decisions. An
42 accountable health plan shall not use this information to deny coverage to a
43 qualified small employer or to an eligible employee or to an eligible
44 dependent, except a late enrollee who attempts to enroll outside an open
45 enrollment period.

J. ~~Notwithstanding the requirements of section 20-224, subsection B and sections 20-837, 20-1010 and 20-1060, beginning July 1, 1996, accountable health plans shall pay a premium tax of one per cent of the net premiums received for health benefits plans issued to small employers.~~ Beginning July 1, 1997, accountable health plans are exempt from the premium taxes ~~that are required by this subsection, section 20-224, subsection B and sections 20-837, 20-1010 and 20-1060,~~ for the net premiums received for health benefits plans issued to small employers. Each accountable health plan shall notify the small employers to whom it provides coverage of the reductions in the premium tax as specified in this subsection.

K. The director may use independent contractor examiners pursuant to sections 20-148 and 20-159 to review the higher level of coverage and lower level of coverage health benefits plans offered by an accountable health plan insurer in compliance with this section. All examination and examination related expenses shall be borne by the insurer and shall be paid by the insurance examiners' revolving fund pursuant to section 20-159.

Sec. 13. Section 41-1525, Arizona Revised Statutes, is amended to read:

41-1525. Tax incentives; definitions

A. The owner of a business or an insurer located in an enterprise zone before July 1, 2011 is eligible for an income tax credit under section 43-1074 or 43-1161 ~~or a premium tax credit under section 20-224.03~~ for net increases in qualified employment positions, except employment positions at a zone location where more than ten per cent of the business conducted at the location consists of retail sales of tangible personal property, measured either by the number of employees assigned to retail sales or the square footage of the facility used for retail sales activities at the location in the zone. Retail sales and retail sales activities do not include:

1. Food and beverage for consumption on the premises solely by employees and occasional guests of employees at the location.
2. Promotional products not available for sale and displaying the company logo or trademark.
3. Products sold to company employees.

B. To qualify for a tax credit, the owner must:

1. Certify to the department of revenue or the department of insurance, as applicable, on or before the due date of the tax return, including any extensions for the year for which the credit is claimed, in a form prescribed by the department of revenue including electronic media, information that the department of revenue may require, including the ownership interests of co-owners of the business if the business is a partnership, limited liability company or an S corporation, and the following information for each employee in the zone location:

- (a) The date of initial employment.
- (b) The number of hours worked during the year.
- (c) Whether the position was full-time.

- 1 (d) The residence of the employee.
- 2 (e) Whether the residence was in or outside the zone.
- 3 (f) If the residence was in the zone, where in the zone it is located.
- 4 (g) The employee's annual compensation.
- 5 (h) The total cost of health insurance for the employee and the cost
- 6 paid by the employer.
- 7 (i) If the employee had been previously employed, the last date of
- 8 previous employment.
- 9 2. Report and certify to the department of commerce the following
- 10 information, and provide supporting documentation, on a form and in a manner
- 11 approved by the department of commerce and, as specified in subsection C of
- 12 this section, for each year in which the taxpayer earned and claimed or used
- 13 credits or is carrying forward amounts from previously earned and claimed
- 14 credits:
- 15 (a) The business name and mailing address and any other contact
- 16 information requested by the department of commerce.
- 17 (b) The business location and the name of the zone in which the
- 18 business is located.
- 19 (c) The average hourly wage and the total amount of compensation paid
- 20 to employees qualified for the credit and for all employees at the zone
- 21 location.
- 22 (d) The total number of qualified employment positions and the amount
- 23 of income tax or premium tax credits qualified for in the tax year.
- 24 (e) The estimated amount of tax credits to be used in the tax year to
- 25 offset tax liability.
- 26 (f) The estimated amount of tax credits to be available for
- 27 carryforward in the tax year and the tax year in which the credits expire.
- 28 (g) The number of jobs and the amount of credits earned and claimed on
- 29 the prior year's income tax or insurance premium tax returns.
- 30 (h) The amount of credits used to offset tax liabilities on the prior
- 31 year's income tax or insurance premium tax return.
- 32 (i) The amount of credits available for carryforward as reported on
- 33 the prior year's tax return and the tax year the credits expire.
- 34 (j) Capital investment made in the zone during the tax year and the
- 35 preceding tax year.
- 36 (k) That each qualified employment position meets all of the following
- 37 requirements:
- 38 (i) The position is at least one thousand seven hundred fifty hours
- 39 per year of full-time permanent employment.
- 40 (ii) All credits that are being claimed are for wages for job duties
- 41 performed primarily at the zone locations of the business.
- 42 (iii) The employment includes health insurance coverage for the
- 43 employee for which the employer pays at least fifty per cent of the premium
- 44 or membership cost. If the taxpayer is self-insured, the employer pays at
- 45 least fifty per cent of a predetermined fixed cost per employee for an

1 insurance program that is payable whether or not the employee has filed
2 claims.

3 (iv) The employer pays compensation at least equal to the wage offer
4 by county as computed annually by the department of economic security
5 research administration division.

6 (l) That the only retail sales activities engaged in at the zone
7 location were as specified in subsection A of this section.

8 (m) Other information necessary for the management and reporting of
9 the incentives under this section.

10 3. For any year in which the taxpayer is claiming first year credits,
11 report and certify the following additional information and provide
12 supporting documentation to the department of commerce on a form and in a
13 manner approved by the department, and as specified in subsection C of this
14 section:

15 (a) That thirty-five per cent of the employees with respect to whom a
16 credit is claimed for the first year of employment resided on the date of
17 employment in an enterprise zone that is located in the same county in which
18 the business is located.

19 (b) That the increase in the number of qualified employment positions
20 for which credit is sought is the least of:

21 (i) The total number of filled qualified employment positions created
22 at the zone location during the tax year.

23 (ii) The difference between the average number of full-time employees
24 at a zone location in the current tax year and the average number of
25 full-time employees during the immediately preceding tax year.

26 (iii) Two hundred qualified employment positions per taxpayer each
27 year.

28 (c) That all employees filling a qualified employment position were
29 employed for at least ninety days during the first taxable year.

30 (d) That none of the employees filling qualified employment positions
31 were employed by the taxpayer during the twelve months before the current
32 date of hire.

33 (e) That all employees for whom second and third year credits are
34 claimed are in qualified employment positions for which first year credits
35 were allowed and claimed by the taxpayer on the original first and second
36 year tax returns. For the purposes of this subsection, the requirement to
37 claim the credit on the original tax return does not apply to qualified
38 employment positions created before January 1, 2002 and certified to the
39 department of commerce.

40 (f) That all employees for whom credits are taken performed their job
41 duties primarily at the zone locations of the business.

42 C. To qualify for first year credits, the report and certification
43 prescribed by subsection B, paragraphs 2 and 3 of this section must be filed
44 with the department of commerce by the earlier of six months after the end of
45 the tax year in which the qualified employment positions were created or by

1 the date the tax return is filed for the tax year in which the qualified
2 employment positions were created. To qualify for second year credits, the
3 report and certification prescribed by subsection B, paragraph 2 of this
4 section must be filed with the department of commerce by the earlier of six
5 months after the end of the taxable year or the date the tax return is filed
6 for the tax year in which the second year credits are allowable. To qualify
7 for third year credits, the report and certification prescribed by
8 subsection B, paragraph 2 of this section must be filed with the department
9 of commerce by the earlier of six months after the end of the tax year or the
10 date the tax return is filed for the tax year in which the third year credits
11 are allowable.

12 D. Any information submitted to the department of commerce under
13 subsection B, paragraph 2, subdivisions (e) through (i) of this section is
14 exempt from the provisions of title 39, chapter 1, article 2 and considered
15 to be confidential and is not subject to disclosure except:

16 1. To the extent that the person or organization that provided the
17 information consents to the disclosure.

18 2. To the department of revenue for use in tax administration.

19 E. Real and personal property within an enterprise zone which is owned
20 or used by a small manufacturing business that is certified by the department
21 pursuant to section 41-1525.01 before July 1, 2011 shall be assessed as class
22 six property as provided by section 42-12006.

23 F. Documents filed with the department of commerce, the department of
24 insurance and the department of revenue under subsection B of this section
25 shall contain either a sworn statement or certification, signed by an officer
26 of the company under penalty of perjury, that the information contained is
27 true and correct according to the best belief and knowledge of the person
28 submitting the information after a reasonable investigation of the facts. If
29 the document contains information that is materially false, the taxpayer is
30 ineligible for the tax incentives under subsection A of this section and is
31 subject to recovery of the amount of tax incentives allowed in preceding
32 taxable years based on the false information, plus penalties and interest.

33 G. The department of commerce may make site visits to a taxpayer's
34 facilities if it is necessary to further document or clarify reported
35 information. The taxpayer must freely provide the access.

36 H. The department by rule may prescribe additional reporting
37 requirements for taxpayers who claim tax benefits pursuant to this section.

38 I. For the purposes of this section:

39 1. "Assigned to retail" means working more than twenty-five per cent
40 of an employee's time in one or more retail sales activities.

41 2. "Retail sales" means the sale of tangible personal property to an
42 ultimate consumer.

43 3. "Retail sales activities" means all activities persons operating a
44 retail business normally engage in, including taking orders, filling orders,
45 billing orders, receiving and processing payment and shipping, stocking and

1 delivering tangible personal property to the ultimate consumer, except drop
2 shipments by a company acting on behalf of an unrelated company that has made
3 a sale to a final consumer.

4 4. "Zone location" means a single parcel or contiguous parcels of
5 owned or leased land, the structures and personal property contained on the
6 land or any part of the structures occupied by a taxpayer.

7 Sec. 14. Section 41-1532, Arizona Revised Statutes, is amended to
8 read:

9 41-1532. Tax incentives; conditions

10 A. A prime contractor may qualify for an exemption from transaction
11 privilege tax with respect to activities in a military reuse zone as
12 provided, and subject to the terms and conditions prescribed, by section
13 42-5075, subsection B, paragraph 4.

14 B. A taxpayer that owns or leases income producing property located in
15 a military reuse zone is eligible for an income tax credit for net increases
16 in employment of full-time employees who are primarily engaged in providing
17 aviation or aerospace services or in manufacturing, assembling or fabricating
18 aviation or aerospace products as provided, and subject to the terms and
19 conditions prescribed, by section 43-1079 or 43-1167, as applicable. To
20 qualify for a tax incentive under this subsection the taxpayer shall:

21 1. Agree with the department of commerce in writing to furnish
22 information relating to the amount of tax benefits the taxpayer receives for
23 each taxable year in which the taxpayer claims the credit. If the taxpayer
24 fails to provide the required information, the department of commerce shall
25 immediately revoke the taxpayer's qualification and notify the department of
26 revenue.

27 2. Enter into a memorandum of understanding with this state through
28 the department of commerce containing employment goals. Each year in which
29 the taxpayer claims the credit the taxpayer shall report in writing to the
30 department of commerce its performance in achieving the goals. The
31 memorandum shall contain provisions that allow:

32 (a) The department of commerce to stop, readjust or recapture all or
33 part of the tax credit allowed to the taxpayer on noncompliance with the
34 terms of the memorandum.

35 (b) The department of commerce to notify the department of revenue of
36 the conditions of noncompliance.

37 (c) The department of revenue to require the taxpayer to file
38 appropriate amended tax returns reflecting the recapture of the tax credit.

39 C. Taxable property in a military reuse zone that is devoted to
40 providing aviation or aerospace services or to manufacturing, assembling or
41 fabricating aviation or aerospace products qualifies for assessment as class
42 six property as provided, and subject to the terms and conditions prescribed,
43 by sections 42-12006 and 42-15006.

44 D. To qualify for a tax incentive described in subsection A or C of
45 this section, the taxpayer shall provide to the department of commerce

1 information relating to the amount of tax benefits the taxpayer receives each
 2 year for each year in which the taxpayer claims the incentives on forms
 3 prescribed by the department of commerce. If the taxpayer fails to provide
 4 the required information, the department of commerce shall immediately revoke
 5 the taxpayer's certification of eligibility and notify the department of
 6 revenue.

7 E. Taxpayers who qualify for tax incentives under subsection B or C of
 8 this section shall be certified by the department of commerce as eligible for
 9 a five year period, subject to termination in the event of changed
 10 circumstances rendering the taxpayer no longer eligible.

11 ~~F. Notwithstanding subsection C of this section, an insurer located in~~
 12 ~~a military reuse zone is eligible for a premium tax credit under section~~
 13 ~~20-224.04 for net increases in employment positions of residents of this~~
 14 ~~state. To qualify for a premium tax credit the insurer shall:~~

15 ~~1. Agree with the department of commerce in writing to furnish~~
 16 ~~information relating to the amount of premium tax credits the insurer~~
 17 ~~receives each year. If the insurer fails to provide the required~~
 18 ~~information, the department of commerce shall immediately revoke the~~
 19 ~~insurer's qualification and notify the department of insurance.~~

20 ~~2. Enter into a memorandum of understanding with this state through~~
 21 ~~the department of commerce containing employment goals. Each year the~~
 22 ~~insurer shall report in writing to the department of commerce its performance~~
 23 ~~in achieving the goals. The memorandum shall contain provisions that allow:~~

24 ~~(a) The department of commerce to stop, readjust or recapture all or~~
 25 ~~part of the premium tax credits provided to the insurer on noncompliance with~~
 26 ~~the terms of the memorandum.~~

27 ~~(b) The department of commerce to notify the department of insurance~~
 28 ~~of the conditions of noncompliance.~~

29 Sec. 15. Repeal

30 Section ~~43-210~~, Arizona Revised Statutes, is repealed.

31 Sec. 16. Section 43-1201, Arizona Revised Statutes, is amended to
 32 read:

33 43-1201. Organizations exempt from tax

34 Organizations that are exempt from federal income tax under section 501
 35 of the internal revenue code are exempt from the tax imposed under this
 36 title. In addition, the following organizations are exempt from the taxes
 37 imposed under this title, except as otherwise provided in this chapter:

38 1. Labor, agricultural or horticultural organizations, other than
 39 cooperative organizations.

40 2. Fraternal beneficiary societies, orders or organizations both:

41 (a) Operating under the lodge system or for the exclusive benefit of
 42 the members of a fraternity itself operating under the lodge system.

43 (b) Providing for the payment of life, sick, accident or other
 44 benefits to the members of such society, order or organization or their
 45 dependents.

1 3. Cemetery companies owned and operated exclusively for the benefit
2 of their members or which are not operated for profit or any corporation
3 chartered for burial purposes and not permitted by its charter to engage in
4 any business not necessarily related to that purpose, no part of the net
5 earnings of which inures to the benefit of any private shareholder or
6 individual member thereof.

7 4. Corporations organized and operated exclusively for religious,
8 charitable, scientific, literary or educational purposes or for the
9 prevention of cruelty to children or animals, no part of the net earnings of
10 which inures to the benefit of any private shareholder or individual, and no
11 substantial part of the activities of which is carrying on propaganda or
12 otherwise attempting to influence legislation.

13 5. Business leagues, chambers of commerce, real estate boards or
14 boards of trade, not organized for profit, no part of the net earnings of
15 which inures to the benefit of any private shareholder or individual.

16 6. Civic leagues or organizations not organized for profit but
17 operated exclusively for the promotion of social welfare or local
18 organizations of employees, the membership of which is limited to the
19 employees of a designated person or persons in a particular municipality, the
20 net earnings of which are devoted exclusively to charitable, educational or
21 recreational purposes.

22 7. Clubs organized and operated exclusively for pleasure, recreation
23 and other non-profitable purposes, no part of the net earnings of which
24 inures to the benefit of any private shareholder.

25 8. Corporations organized for the exclusive purpose of holding title
26 to property, collecting income therefrom and turning over the entire amount
27 of such income, less expenses, to an organization which itself is exempt from
28 the tax imposed by this title.

29 9. Voluntary employees' beneficiary organizations providing for the
30 payment of life, sick, accident or other benefits to the members of such
31 organizations or their dependents, if both of the following apply:

32 (a) No part of their net earnings inures, other than through such
33 payments, to the benefit of any private shareholder or individual.

34 (b) Eighty-five per cent or more of the income consists of amounts
35 collected from members and amounts contributed to the organization by the
36 employer of the members for the sole purpose of making such payments and
37 meeting expenses.

38 10. Teachers' or public employees' retirement fund organizations of a
39 purely local character, if both of the following apply:

40 (a) No part of their net earnings inures to the benefit of any private
41 shareholder or individual, other than through payment of retirement benefits.

42 (b) The income consists solely of amounts received from public
43 taxation, amounts received from assessments upon the salaries of members and
44 income in respect of investments. For the purposes of this paragraph,

1 "public employees" means employees of the state and its political
2 subdivisions.

3 11. Religious or apostolic organizations or corporations, if such
4 organizations or corporations have a common treasury or community treasury,
5 even if such corporations or organizations engage in business for the common
6 benefit of the members, but only if the members thereof include, at the time
7 of filing their returns, in their Arizona gross income their pro rata shares,
8 whether distributed or not, of the net income of the organizations or
9 corporations for such year. Any amount so included in the Arizona gross
10 income of a member shall be treated as a dividend received.

11 12. Voluntary employees' beneficiary organizations providing for the
12 payment of life, sick, accident or other benefits to the members of such
13 organization, their dependents or their designated beneficiaries, if both of
14 the following apply:

15 (a) Admission to membership in such organization is limited to
16 individuals who are officers or employees of the United States government.

17 (b) No part of the net earnings of such organization inures, other
18 than through such payments, to the benefit of any private shareholder or
19 individual.

20 13. Corporations classified as diversified management companies under
21 section 5 of the federal investment company act of 1940 and registered as
22 provided in that act.

23 14. Insurance companies [FILING A REPORT PURSUANT TO SECTION 20-224 OR](#)
24 paying to the state tax upon premium income derived from sources within this
25 state.

26 15. Mutual ditch, irrigation or water companies or similar nonprofit
27 organizations if eighty-five per cent or more of the income consists of
28 amounts collected from members for the sole purpose of meeting losses and
29 expenses.

30 16. Workers' compensation pools established pursuant to section
31 23-961.01.

32 Sec. 17. [Effective date](#)

33 This act is effective from and after December 31, 2008.